



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

September 6, 2019

**By ECF**

The Honorable Lorna G. Schofield  
United States District Judge  
40 Foley Square  
New York, NY 10007

Re: *PEN American v. Trump*, 18 Civ. 9433 (LGS)

Dear Judge Schofield:

This Office represents defendant President Donald J. Trump in this First Amendment action brought by plaintiff PEN American Center, Inc. (“PEN American”). I write respectfully to bring to the Court’s attention the September 3, 2019 decision of the United States District Court for the Southern District of New York in *Equal Vote America Corp. v. Congress*, No. 19-cv-311 (CM). In *Equal Vote America*, Chief Judge McMahon dismissed claims brought by an organizational plaintiff on grounds of standing. Specifically, on a motion to dismiss pursuant to Rule 12(b)(1), the Court held that “in order to bring claims on behalf of its members under the ‘associational standing’ doctrine, an organizational plaintiff . . . must identify, by name, at least one member with standing.” Memorandum Decision and Order Granting Defendants’ Motion to Dismiss and Denying Plaintiffs’ Motion for Leave to Amend at 7, *Equal Vote America Corp. v. Congress*, No. 19-cv-311 (CM) (S.D.N.Y. Sept. 3, 2019), Dkt. No. 29 (citing *Summers v. Earth Island Inst.*, 555 U.S. 488, 498-99 (2009)). Plaintiff in the present case has disputed this requirement. See Memorandum of Law in Opposition to Defendant’s Motion to Dismiss at 14, Dkt. No. 48. The holding in *Equal Vote America* is relevant to the present case because it concerns claims brought by an organizational plaintiff without standing, unlike *Karem v. Trump*, No. 19-2514, 2019 WL 4169824 (D.D.C. Sept. 3, 2019), the case plaintiff brought to the Court’s attention by letter dated September 4, 2019, see Dkt. No. 72, which concerned claims brought by an individual journalist.

Thank you for your consideration of this submission.

Respectfully submitted,  
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